S.B.Civil Misc. Appeal No.274/92.
New India Assurance Co. Ltd.
vs.
Davendra Kumar & anr.

Date of order: 6.10.2006

HON'BLE MR. PRAKASH TATIA, J.

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Mr.Jaswant Mal Bhandari for the appellant,
None present for the respondent.

Heard learned counsel for the appellant.

This appeal is directed against the order dated 10.4.1992 passed by the learned Workmen Compensation Commissioner,Sri Ganganagar in Claim Case No.4/91. The grievance of the appellant is only to the extent that the amount of penalty as well as interest cannot be recovered from the appellant Insurance Company and it is the liability of the only employer. The total compensation awarded to the claimant is Rs.15,540/-.The penalty amount is Rs.7,770/- with interest @ 12% per annum, which is only Rs. 2796/-. Since it is settled law that the Insurance Company cannot be held liable to pay the penalty amount, therefore, the appeal deserves to be partly allowed.

Hence the appeal of the appellant is partly allowed. But it is made clear that if the amount of penalty has been paid to the claimant by the Insurance Company, the same shall not be recovered from the claimant. However, it may be recovered from the employer only.

(PRAKASH TATIA),J.

mlt.